

UNITED STATES DISTRICT COURT

for the

Southern District of Mississippi

United States of America

v.

)

Case No. 1:16mj 569 -RHW

)

Philip Joseph Spear

)

Defendant(s)

(REDACTED)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 8, 2016 in the county of Jackson in the Southern District of MS, Southern Division, the defendant(s) violated:

Code Section

18 USC 2252(a)(4)(B)

Offense Description

Defendant did knowingly possessed, one or more books, magazines, periodicals, films, videotapes, or other matter which contain any visual depiction that has been mailed, or has been shipped or transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce, or which was produced using materials which have been mailed or so shipped or transported by any means including by computer, and the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and such visual depiction is of s

This criminal complaint is based on these facts:

See Affidavit, which is attached and incorporated by reference herein.

Continued on the attached sheet.

Complainant's signature

Richard Johnson Task Force Agent, FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: SEPT. 9, 2016

Judge's signature

City and state: Gulfport, Mississippi

Robert H. Walker, United States Magistrate Judge

Printed name and title

**AFFIDAVIT IN SUPPORT OF CRIMINAL
COMPLAINT**

I, Richard Johnson, a Task Force Officer (TFO) with the Federal Bureau of Investigation, being duly sworn, hereby depose and state as follows:

INTRODUCTION

1. I am a certified law enforcement officer being duly certified in 1999 by the State of Mississippi and have worked in law enforcement for seventeen (17) years. During these seventeen (17) years I have investigated numerous types of violations such as narcotics violations, public integrity violations and cybercrime offenses. I obtained a Bachelor of Science in Criminal Justice Degree in May of 1999 from Delta State University. Throughout my law enforcement career, I have received specialized training and have received numerous certificates pertaining to law enforcement. For the past seven (7) years I have been employed with the Mississippi Attorney General's Office as an Internet Crimes Against Children Investigator. I have been involved in investigating cybertips that are distributed by the National Center for Missing and Exploited Children (NCMEC). I have also been involved in investigating Peer to Peer cases as well as online chat cases involving child exploitation. I have received training in cyber crimes and computer forensics. I have also received training in investigative techniques and undercover chat for internet crimes against children. I am currently assigned to the Federal Bureau of Investigation Child Exploitation Task Force.

2. I have been assigned as a Task Force Officer (TFO) with the Federal Bureau of Investigation (FBI) since December 1, 2013, and am currently assigned to the Jackson Division

of the FBI. While employed by the FBI, I have investigated federal criminal violations related to child exploitation and child pornography. I have gained experience through training opportunities and everyday work related to conducting these types of investigations.

3. As a Task Force Officer, I am authorized to investigate violations of United States laws and to execute warrants issued under the authority of the United States as well as seeking arrest warrants for Federal violations of law. I am investigating the activities of PHILIP JOSEPH SPEAR, who resides at [REDACTED] Ocean Springs, Mississippi. As described below, there is probable cause to believe that PHILIP JOSEPH SPEAR has possessed images of child pornography in violation of Title 18, U.S.C. Section 2252(a)(4)(B); and I submit this application and affidavit in support of a criminal complaint seeking the arrest of PHILIP JOSEPH SPEAR for possession of child pornography.

4. Title 18, United States Code, Section 2252(a) prohibits a person from knowingly transporting, shipping, receiving, distributing, reproducing for distribution, or possessing any visual depiction of minors engaging in sexually explicit conduct when such visual depiction was either mailed or shipped or transported in interstate or foreign commerce by any means, including by computer, or when such visual depiction was produced using materials that had traveled in interstate or foreign commerce.

PROBABLE CAUSE

5. On or about May 12, 2016, an online covert employee (OCE) conducted an undercover investigation on users having child pornography available for download on the internet. During this investigation, Internet Protocol (IP) address 159.118.194.81 was identified

as having child pornography available for download on Peer to Peer ("P2P") networks. There were 97 notable titles related to child pornography among the titles of the files IP address 159.118.194.81 had available from 10/7/2015 through 7/10/2016. Some of the words in the titles of the files relating to child pornography were 2YO, babyJ, hussyfan, toddler, Pthc and many more. On Thursday, May 12, 2016, OCE successfully completed the download of one file that the computer at IP address 159.118.194.81 had available for download. The name of the file is "(pthc) filhinha de 9 anos fazendo o papai gozar na punheta (2). Mpg". File description: It is a video approximately one minute and fifteen seconds long. It begins with a female prepubescent child lying on the bed nude with a blanket partially covering her nude body. She is facing away from the camera but her bottom and vagina are exposed to the camera. At approximately 10 seconds into the video an adult male touches the prepubescent female child's vagina with his finger. At approximately 14 seconds into the video the adult male licks the female child's prepubescent vagina. At approximately 30 seconds he rubs the child's vagina with his finger again. At approximately 54 seconds the adult male tries to insert his penis into the child's prepubescent vagina. He rubs his penis on her vagina, inserts the tip and ejaculates. Task Force Officer Richard Johnson viewed this video and believes it is child pornography.

6. On 5/12/2016, an Administrative Subpoena was issued requesting subscriber information from Cable One, an Internet service provider (ISP) responsible for IP address 159.118.194.81. On the dates and times when the child pornography files were available for download, the subscriber to IP address 159.118.194.81 was reported as being:

Phillip Spear
[REDACTED]
Ocean Springs, Ms. 39564
Email: [REDACTED]@yahoo.com

7. A National Comprehensive Report using Accurint was conducted for Philip Spear from Ocean Springs, Mississippi with the following results:

Name: Phillip Joseph Spear
D.O.B.: [REDACTED] 1957
SSN: XXX-XX-0111
Address: [REDACTED] Ocean Springs, Mississippi

8. On September 8, 2016, a search warrant was executed at the residence of PHILIP JOSEPH SPEAR. An on-site forensic review was conducted on the computer equipment belonging to SPEAR and the following files were among the child pornography files located:

(~pthc center~)(opva)(2013) fresh loli cum vid_20130525_014750.mp4

This file depicts a prepubescent female child lying on her back with a white shirt pulled up. She is nude from the waist down and an adult male is masturbating and penetrating her vagina. The male ejaculates on her vagina. The video is 34 seconds in length.

Screenshot 2015-10-21 18.19.59.png

This image file depicts a prepubescent female child lying on her back with her hand on an adult male penis. The penis is touching her vagina. The male is ejaculating on her vagina.

Screenshot 2015-09-26 04.16.17.png

This video file depicts a prepubescent female child lying on her back exposing her vagina.

9. On September 8, 2016, PHILIP JOSEPH SPEAR was interviewed by officers. SPEAR admitted to searching for and downloading child pornography. SPEAR admitted he has had a sexual interest in children since he was twelve years old. He admitted using the search term

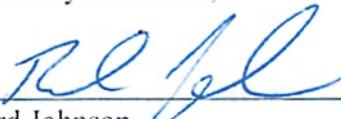
"pthe" on the ARES peer to peer file sharing network. He has been downloading child pornography since he lived in the Philippines approximately five to six years ago.

10. A video file was located on PHILIP JOSEPH SPEAR'S computer that depicted a female child (Minor "A") performing oral sex on SPEAR. Minor "A" is an individual known to law enforcement as someone with whom SPEAR had contact and has contact and has a close relationship. The video appears to have been made when Minor "A" was approximately 15 to 16 years old. SPEAR is known to presently have access to minor children under the age of 18 years old.

CONCLUSION

11. Based on the aforementioned factual information in this Affidavit, I respectfully submit that there is probable cause to believe that there have been one or more violations of 18 U.S.C. §§ 2252(a)(4)(B) committed by PHILIP JOSEPH SPEAR and respectfully request that an arrest warrant charging PHILIP JOSEPH SPEAR for possession of child pornography be issued.

Respectfully submitted,



Richard Johnson
Task Force Officer
Federal Bureau of Investigation

Subscribed and sworn to before me on this the 9th day of September, 2016.



HONORABLE ROBERT H. WALKER
UNITED STATES MAGISTRATE JUDGE